

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ALVIN DAMPIER,

Plaintiff(s),

v.

KING COUNTY SHERIFF'S DEPUTY  
DONAGLIA, et al.,

Defendant(s).

NO. C05-1954P

ORDER ON REPORT AND  
RECOMMENDATION

The above-entitled Court, having received and reviewed:

1. Magistrate's Report and Recommendation (Dkt. No. 33)
2. Plaintiff's Objection to the Report and Recommendation (Dkt. No. 35)

and all exhibits and declarations attached thereto, makes the following ruling:

IT IS HEREBY ORDERED that the matter is REMANDED to the Magistrate Judge, who is directed to set a briefing schedule for Plaintiff to respond to Defendants' Motion for Summary Judgment and for Defendants' reply to that response.

IT IS FURTHER ORDERED that no further extensions will be granted Plaintiff; should he fail to timely file a response, Defendants' motion will be summarily granted.

**Discussion**

On August 4, 2005, Plaintiff was charged by information with a Violation of the Uniform Controlled Substances Act occurring on March 23, 2005 (Dkt. No. 26-2 at 12-13), a charge which was dismissed on April 4, 2006 pursuant to a plea agreement which appears to have involved Plaintiff's guilty plea to criminal charges in two other matters. (Dkt. No. 26-2 at 15-16). On

1 November 22, 2005, Plaintiff filed the instant civil rights complaint in this Court (Dkt. No. 1) alleging  
2 racial profiling in the March 2005 arrest. An amended complaint was filed thereafter. (Dkt. No. 9).

3 Beginning in June 2006, Plaintiff submitted to the Court a number of letters and hand-written  
4 motions attempting amend or extend the case schedule based on a series of custodial transfers which  
5 allegedly hampered his access to both his legal documents and a legal library. (Dkt. Nos. 20, 24, 25,  
6 28). The Magistrate Judge to whom this matter had been referred struck Plaintiff's motions on the  
7 grounds that, although he had submitted them to the Court, he had not served copies of them on the  
8 Defendants as required by the local rules. (Dkt. Nos. 27, 31).

9 In the meantime, on August 9, 2006, Defendants had filed a motion for summary judgment  
10 (Dkt. No. 26) seeking dismissal of all claims against all parties. Plaintiff never responded to the  
11 motion other than to file with the Court another letter on November 1, 2006 alleging that he had been  
12 in Administrative Segregation for the last month and unable to respond to any matters pending in his  
13 litigation. (Dkt. No. 32). Based on Defendants' pleadings and the absence of any response by  
14 Plaintiff, the Magistrate Judge recommended that summary judgment be granted and the case  
15 dismissed with prejudice. (Dkt. No. 33).

16 The Magistrate Judge is indeed correct that Plaintiff's filings did not conform to the  
17 requirements of LR 7(b). And, while pro se plaintiffs are expected to adhere to the same standards of  
18 legal practice as all other practitioners, this Court is mindful of (1) the difficulties inherent in  
19 prosecuting a lawsuit while being transferred from facility to facility and (2) the fact that Plaintiff has  
20 made a number of good faith (albeit inadequate) efforts to obtain extensions of time to meet his case  
21 deadlines. Furthermore, it appears that Plaintiff's residence has stabilized for the moment and that he  
22 will serve out the remainder of his confinement at the Airway Heights Correctional Center.

23 In view of the fact that it is preferable to have these matters resolved on substantive rather than  
24 procedural grounds, the Court is going to remand this case back to the Magistrate Judge with a  
25

1 directive to set a briefing schedule for Plaintiff's response to Defendants' summary judgment motion  
2 and Defendants' reply to that response. It is also the order of this Court that no further extensions be  
3 granted following this one; should Plaintiff fail to file a timely response to Defendants' motion, it will  
4 be summarily granted.

5  
6 The clerk is directed to provide copies of this order to all counsel of record.

7 Dated: January \_\_18\_\_, 2007

8  
9 

10 Marsha J. Pechman  
11 U.S. District Judge  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25